

**BOARD OF COUNTY COMMISSION
AGENDA ITEM SUMMARY**

Meeting Date: 8/17/05 – Key Largo

Division County Attorney's Office

Bulk Item: Yes X No

Staff Contact Person: Susan Grimsley

AGENDA ITEM WORDING:

Approval to advertise an Ordinance amending Sec. 263, Chapter 2, of the Monroe County Code providing authority to the County Attorney to settle claims and lawsuits not only when the County is paying the settlement as currently stated, but also when the County is the recipient of funds or the beneficiary of the settlement. The ordinance revision also corrects a scrivener's error indicating that settlements over the amount of \$25,000.00 are paid out of the County Attorney's funds.

ITEM BACKGROUND:

Ordinance No. 039-2004 was enacted to provide authority to the County Attorney to settle claims and lawsuits when the County is the payor of settlement funds, with certain monetary limitations on that authority. However, no authority was provided to settle claims and lawsuits when the County receives funds or is the settlement beneficiary. The County Attorney will have the authority to settle claims and lawsuits whether received or paid out in amounts or value up to and including \$15,000.00, authority with consent of the County Administrator in amounts or value over \$15,000.00 up to and including \$25,000.00, and will continue to obtain BOCC approval to authorize pay out or receipt of funds or items of value over \$25,000.00. All settlements paid shall come from County funds.

PREVIOUS RELEVANT BOCC ACTION:

Ordinance No. 039-2004 enacted 12/15/2004.

CONTRACT/AGREEMENT CHANGES:

STAFF RECOMMENDATIONS:

Approval.

TOTAL COST: N/A

BUDGETED: Yes No

COST TO COUNTY: N/A

SOURCE OF FUNDS:

REVENUE PRODUCING: Yes No X **AMOUNT PER MONTH** **Year**

APPROVED BY: County Atty OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:  08/16/05
JOHN R. COLLINS, COUNTY ATTORNEY

DOCUMENTATION: Included Not Required X

DISPOSITION:

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ORDINANCE No. ____ - 2005

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA AMENDING CHAPTER 2 OF THE MONROE COUNTY CODE ENTITLED "ADMINISTRATION" BY AMENDING SEC. 2-363 TO ALLOW THE COUNTY ATTORNEY TO AGREE TO SETTLEMENTS OF CLAIMS AND LITIGATION ON BEHALF OF MONROE COUNTY UNDER CERTAIN CIRCUMSTANCES WHEN THE COUNTY IS THE BENEFICIARY OF THE SETTLEMENT OR THE RECIPIENT OF FUNDS; AMENDING SEC. 2-363(3) IN ORDER TO CORRECT A SCRIVENER'S ERROR AND CLARIFYING THAT PAYMENT OF SETTLEMENT AMOUNTS FOR CLAIMS OR LAWSUITS ARE PAID BY THE COUNTY AND NOT BY THE COUNTY ATTORNEY; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Ordinance No. 039-2004 was enacted to provide authority to the County Attorney for Monroe County to settle claims and lawsuits under certain circumstances; and

WHEREAS, Ordinance No. 039-2004 gave authority to the County Attorney to settle claims and lawsuits when Monroe County paid the settlement funds, but not when Monroe County received the settlement funds; and

WHEREAS, Ordinance No. 039-2004 states incorrectly that the County Attorney has authority to settle claims and lawsuits with approval of the Board of County Commissioners where the settlement amount to be paid by the County Attorney is in excess of twenty-five thousand dollars; and

WHEREAS, the County Attorney does not pay settlements from his funds or budget and the word "Attorney" was inserted in error; and

WHEREAS, after codification of Ordinance No. 039-2004, Section 2-363(3) of the Monroe County Code of Ordinances reflects this incorrect wording;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. Sec. 2-363 of the Monroe County Code is hereby amended as follows*:

Sec. 2-363. Settlement of claims and litigation.

The County Attorney shall have the authority to settle any claim made by or against the County and settle on behalf of the County any lawsuit in which the County is a party. Settlement authority may be exercised under the following conditions:

(1) By the County Attorney, in his or her judgment, when the settlement value or amount to be paid or received by the County does not exceed fifteen thousand dollars (\$15,000.00).

(2) By the County Attorney, with the written concurrence of the County Administrator, when the settlement value or amount to be paid or received by the County is in excess of fifteen thousand dollars (\$15,000.00) and does not exceed twenty-five thousand dollars (\$25,000.00).

(3) By the County Attorney, with prior approval of the Board lawfully authorized at a public meeting of the Board, where the settlement value or amount to be paid or received by the County ~~Attorney~~ is in excess of twenty-five thousand dollars (\$25,000.00).

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 4. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and if necessary, shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 5. This ordinance shall take effect immediately upon receipt of official notice from the Office of the Secretary of State of the State of Florida that this ordinance has been filed with said Office.

*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the _____ day of _____, 2005.

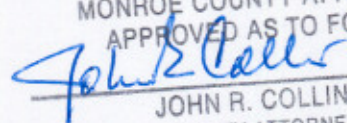
Mayor Dixie M. Spehar
Mayor Pro Tem Charles "Sonny" McCoy
Commissioner Murray Nelson
Commissioner George Neugent
Commissioner David Rice

(SEAL)
Attest: DANNY L. KOLHAGE, Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Mayor Dixie M. Spehar

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

JOHN R. COLLINS
COUNTY ATTORNEY
Date 08/01/05